

NATIONAL RECOVERY ADMINISTRATION

**AMENDMENT TO
CODE OF FAIR COMPETITION
FOR THE
ADVERTISING SPECIALTY
INDUSTRY**

AS APPROVED ON JANUARY 15, 1935



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Approved Code No. 65—Amendment No. 1

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

ADVERTISING SPECIALTY INDUSTRY

As Approved on January 15, 1935

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE ADVERTISING SPECIALTY INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of amendments to a Code of Fair Competition for the Advertising Specialty Industry, and hearings having been duly held thereon and the annexed report on said amendments, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, and otherwise; does hereby incorporate, by reference, said annexed report, and does find that said amendments and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said amendments be and they are hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended; provided, however, that the conditions set forth in the Executive Order of Approval, dated October 31, 1933, shall remain in effect.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer*.

Approval recommended:

KILBOURNE JOHNSTON,
Acting Division Administrator.

WASHINGTON, D. C.,
January 15, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the amendment of the Code of Fair Competition for the Advertising Specialty Industry, as approved by you on October 31, 1933. Application was duly made by the Code Authority for the Advertising Specialty Industry for amendments to Article II, Sections (a) and (b); Article III, Section 1; and Article VII, Paragraph A of the Code of Fair Competition for this Industry. A Public Hearing on certain amendments that were germane to these present amendments was held on May 7, 1934. Fair notice of opportunity to be heard on these present proposed amendments was given to all interested parties.

The purpose and effect of these amendments is:

- (1) To more clearly and restrictively define the definition of this Industry;
- (2) To set forth more definitely the hours limitation;
- (3) To include provisions forbidding subterfuge, requiring establishment and submission to the Administration of standards of safety and health, requiring the posting of labor provisions, and forbidding dismissal for complaints;
- (4) To provide representation for jobbers on the Code Authority, thus making representation more equitable; and
- (5) To more adequately set forth the powers and duties of the Code Authority.

The Assistant Deputy Administrator in his final report to the National Industrial Recovery Board on said amendments to said Code, having found as herein set forth, and on the basis of all the proceedings in this matter:

Said Board finds that:

(a) Said amendments to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of Industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate Governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of Industries, by avoiding undue restrictions of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid amendments on behalf of the Industry as a whole.

(d) The amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendments.

For these reasons, therefore, said Board has approved said amendments.

For the National Industrial Recovery Board:

W. A. HARRIMAN, *Administrative Officer*.

JANUARY 15, 1935.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE ADVERTISING SPECIALTY INDUSTRY

ARTICLE II

Delete Article II, Section (a), substituting therefor:

"(a) The term 'Advertising Speciality Industry' or 'Industry' as used herein is defined to mean and include the manufacture (fabrication and/or assembly), and/or sale by the manufacturer and/or jobber of the products of this Industry or any one of them".

Delete Article II, Section (b), substituting therefor:

"(b) The term 'Products of this Industry' or 'Products' is defined to mean and include all articles specifically designed and made for advertising purposes and incorporating the advertising integrally on or as a part of the article, together with parts of the foregoing articles which incorporate the aforementioned advertising copy when manufactured (fabricated and/or assembled), such articles being given away to the ultimate consumer.

ARTICLE III

SECTION 1. Delete, substituting therefor the following:

"Section 1. (a) No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, except as herein otherwise expressly provided".

"Section 1 (b). The maximum hours fixed in Section 1 (a) shall not apply to employees for twelve (12) weeks in any fifty-two (52) weeks period during which time overtime shall not exceed eight (8) hours in any one week; provided, that at least one and one-half (1½) times the regular rate shall be paid for hours worked in excess of eight (8) hours in any twenty-four (24) hour period or forty (40) hours in any seven (7) day period".

"SECTION 1 (c) No employee shall be permitted to work more than six days in any seven day period, except watchmen may be permitted to work thirteen (13) days in any fourteen (14) day period.

"SECTION 1 (d) The maximum hours fixed in Section 1 (a) shall not apply to watchmen, provided that watchmen shall not be permitted to work in excess of forty-eight (48) hours per week."

ARTICLE IV

To Article IV add the following provisions:

"(f) *Subterfuge Forbidden*.—No employer shall reclassify employees or duties of occupations performed or engage in any other

subterfuge so as to defeat the purposes or provisions of the Act or of this Code.

“(g) *Standards for Safety and Health*.—Every employer shall provide for the safety and health of employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Code Authority to the National Industrial Recovery Board before March 1, 1935.

“(h) *Posting Required*.—All employers shall post and keep posted copies of this Code in conspicuous places accessible to all employees. Every member of the Industry shall comply with all rules and regulations relative to the posting of provisions of Codes of Fair Competition which may from time to time be prescribed by the National Industrial Recovery Board.

“(i) *Dismissal for Complaints Forbidden*.—No employee shall be discharged, demoted, or otherwise discriminated against by reason of making a complaint or giving evidence with respect to an alleged violation of this Code.”

ARTICLE VII

Substitute the following for Article VII, Paragraph (a):

“(a) To effectuate further the policies of the Act, a Code Authority for the Advertising Specialty Industry is hereby designated to administer this Code.

“1. The Code Authority shall consist of five representatives of the Industry, four of whom shall be manufacturers and one of whom shall be a jobber, to be elected by a fair method of selection approved by the National Industrial Recovery Board and in addition there may be three members, without vote, to be known as Administration Members, to be appointed by the National Industrial Recovery Board to serve for such terms as it may specify.

“2. Each trade association, directly or indirectly, participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the National Industrial Recovery Board true copies of its articles of association, by-laws, regulations and any amendments when made thereto, together with such other information as to membership, organization and activities as the National Industrial Recovery Board may deem necessary to effectuate the purposes of the Act.

“3. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such hearings as it may deem proper and thereafter, if it shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

“4. If the National Industrial Recovery Board shall determine that any action of the Code Authority, or any agency thereof, may be unfair or unjust or contrary to the public interest, the National Industrial Recovery Board may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by the Code Authority or agency pending



final action which shall not be effective unless the National Industrial Recovery Board approves or unless it shall fail to disapprove after thirty (30) days' notice to it of intention to proceed with such action in its original or amended form.

"5. The Code Authority shall have power to investigate alleged violations of this Code and acts or courses of conduct by any member which are or appear to be contrary to the policy of the Act or which tend or may tend to render ineffective this Code and to report the same with recommendations to the National Industrial Recovery Board.

"6. The Code Authority shall use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations or agencies shall at all times be subject to and comply with the provisions hereof.

"7. The Code Authority may appoint a Trade Practice Committee which shall meet with the Trade Practice Committees under such other Codes as may be related to this Industry for the purpose of formulating Fair Trade Practices to govern the relationship between production and distribution employers under this Code and under such others to the end that such Fair Trade Practices may be proposed to the National Industrial Recovery Board as amendments to this Code and such other Codes.

"8. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose; nor shall any member of the Code Authority be liable in any manner to any one for any act of any other member, officer, agent or employee of the Code Authority; nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to any one for any action or omission to act under this Code, except for his own wilful malfeasance or nonfeasance.

"9. The Code Authority may recommend to the National Industrial Recovery Board any action or measures deemed advisable, including further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries; measures for industrial planning, and stabilization or employment; and including modifications of this Code which shall become effective as part hereof upon approval by the National Industrial Recovery Board after such notice and hearing as it may specify".

Approved Code No. 65—Amendment No. 1.
Registry No. 1702-2-01.